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UNDER 37 CFR 1.8(a)**

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8 March 2004
HUESCHEN AND SAGE

G. PATRICK SAGE
Dated: 8 March 2004

Applicant : Toufic RENNO and Jean-Yves BONNEFOY
Serial No. : 09/913,772
Filed : September 24, 2001
Title : USE OF AN ENTERBACTERIUM OmpA PROTEIN
COMBINED WITH AN ANTIGEN, FOR GENERATING
AN ANTIVIRAL, ANTIPARASITIC OR ANTITUMOR
CYTOTOXIC RESPONSE
Art Unit : 1645
Examiner : Robert A. ZEMAN, Esq.

Honorable Commissioner of Patents and Trademarks

Alexandria, VA 22313

RESPONSE AND ELECTION UNDER 37 CFR §§ 1.111 and 1.142

Sir:

IN THE CLAIMS: See Listing of Claims attached hereto which will replace all prior versions of claims in the application.

Responsive to the Office Action, a Restriction Requirement, dated February 9, 2004, the applicants elect, with traverse, to prosecute the invention of Group I, Claim(s) 44-57 and 60-67. It is the position of the Office that the special technical feature of the claims in Group I is the method steps used to prepare compositions comprising

OmpA. It is possible that the Office has misinterpreted the subject matter of generic Claim 44 and that of Restriction Group I. The common special technical feature of the instant invention is the use of OmpA in pharmaceutical compositions to generate/increase a cytotoxic response. This feature is central to all claims. What the Office defines as independent inventions it is argued are species of the common special technical invention.

With the instant Response, the Applicants amend generic Claim 44, rewriting the use subject matter, which was appropriate to the basis international application, to method subject matter, which is appropriate to US prosecution. It is submitted that this amendment will serve to avoid any misunderstanding as to the scope of the instant use, now method, claims.

With regard to the Restriction Requirement, if the Office chooses to maintain such requirement in view of the instant amendment, the Office may withdraw the non-elected subject matter without prejudice to its rejoinder during later examination and/or prosecution in a divisional application.

The Applicants respectfully submit that by merely withdrawing the non-elected subject matter pending notification of allowable subject matter, the Applicants distinctly and affirmatively identify subject matter which they assert, upon examination will be found a part of the claimed invention. The Applicants reassert their right to rejoin non-elected claims upon the identification of allowable subject matter.

* * * * *

Accordingly, entry of the present Election into the record of this application, and swift and favorable consideration of the instant application is respectfully solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
G. PATRICK SAGE

Dated: March 8, 2004
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Enclosure: Listing of Claims, Postal Card Receipt

**THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER
OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION,
DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO
DEPOSIT ACCOUNT NO. 08,3220.**